

**BOARD OF ADJUSTMENT MEETING
CITY OF FORT LAUDERDALE
WEDNESDAY, SEPTEMBER 12, 2012 – 6:30 P.M.
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA**

		Cumulative Attendance 6/2012 through 5/2013	
Board Members	Attendance	Present	Absent
Diana Waterous Centorino, Chair	P	3	1
Michael Madfis, Vice Chair	P	4	0
Caldwell Cooper	P	3	1
Karl Shallenberger [7:12-7:31]	P	4	0
Henry Sniezek	P	4	0
Fred Stresau	A	3	1
Sharon A. Zamojski	P	3	1
Alternates			
Roger Bond	P	4	0
Charlie Ladd	P	4	0
Birch Willey	P	4	0

Staff

Bob Dunckel, Assistant City Attorney
Anthony Fajardo, Zoning Administrator
Gail Jaggesar, Administrative Aide
Mohammed Malik, Director of Zoning
B. Chiappetta, Recording Secretary, Prototype Inc.

Communication to the City Commission

None

Purpose: Section 47-33.1.

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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Call to Order

Chair Centorino called the meeting to order at 6:30 p.m. She introduced Board members and determined a quorum was present.

Approval of Minutes – July 2012

Motion made by Mr. Cooper, seconded by Mr. Snizek, to approve the minutes of the Board's July 2012 meeting. In a voice vote, motion passed unanimously.

Board members disclosed communications they had and site visits made regarding items on the agenda.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

1. APPEAL NO. 12-29

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APPLICANT: Las Olas Property Management
AGENT: Jose M Erazo
LEGAL: "Las Olas by the Sea" Re-Amen Plat 1-16 B Lot 14 Less S 20
M/L for St Blk 6
ZONING: PRD (Planned Resort Development District).
STREET: 235-237 Almond Ave
ADDRESS: Fort Lauderdale, FL
DISTRICT: 2

APPEALING: Section 5-26.b (Distance between establishments)

Requesting a Special Exception to allow the sale of alcohol at a distance of 175 feet from other establishments that sell alcohol, where Code requires a minimum of 300 feet separating establishments that sell alcoholic or intoxicating beverages.

This item was deferred for 30-days (7-0) from the August 8, 2012 BOA meeting, which included a previous request for a variance. The current request is for a special exception to allow alcohol sales incidental to food sales.

Chair Centorino stated the applicant was requesting a deferral. She read a letter received from E. John Weaver, President of the Central Beach Alliance [CBA], indicating that they would see a presentation from the applicant on 9/13, after which they would have an idea of how residents and businesses felt about the issue.

Steve Carbone, co-owner of Hunter's Beach Bar, said he would make the presentation to the CBA, and requested a deferral from the BOA until after that meeting.

Since the last hearing, Mr. Carbone stated they had redone the application to address the criteria questions and they had increased food service so they could apply for a special exception instead of a variance.

Motion made by Mr. Madfis, seconded by Mr. Cooper, to defer the case for 30 days. In a voice vote, motion passed 7-0.

2. APPEAL NO. 12-21

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APPLICANT: Judy H Hudson
LEGAL: "CORAL RIDGE ADD" A 41-30 B LOT 23 BLK 3
ZONING: RD-15 (Residential Zoning Districts and Residential Office Zoning Districts)
STREET: 5125 NE 19 Avenue
ADDRESS: Fort Lauderdale, FL
DISTRICT: 1

APPEALING: Section 47-5.32 (Freestanding Shade Structure)

Requesting a variance, after the fact, to allow a one (1) foot four (4) inch side yard setback for a shade structure where the code states that freestanding shade structures (such as a gazebo, a tiki hut, or a trellis) may be permitted when accessory to residential uses, in the required rear yard but no closer than five (5) feet from the rear property line except where a parcel is abutting a waterway, where they shall be no closer than ten (10) feet from the waterway.

Mr. Bond abstained due to conflict - notice filed as required. Mr. Ladd took his place on the dais.

Elizabeth Nelson, neighbor, explained that the Tiki Hut had been built to replace one that had fallen apart. She said the owner had no idea that there was a problem with the placement of the old or new Tiki Hut. Judy Hudson, applicant, said that four different

Seminole companies had informed her that she did not need a permit to rebuild the Tiki Hut.

Ms. Nelson had a letter from the adjacent assisted living facility stating they liked the placement of the Tiki Hut because it provided them some privacy.

Mr. Dunckel confirmed that a building permit was not required when qualified Seminole Indians constructed a Tiki Hut, but the installation must still comply with zoning regulations.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Dunckel cautioned the Board that they might want to limit the variance to the life of this Tiki Hut. Mr. Dunckel explained that if that condition were attached to the variance and the Tiki Hut was damaged, perhaps by a hurricane, the 50% rule would not apply and the Tiki Hut could not be rebuilt.

Mr. Cooper suggested granting the variance to this owner and Mr. Dunckel pointed out that the law looked askance at variances granted to individuals. If the Board wished to do that, Mr. Dunckel advised them to solicit from the owner a waiver of any right of appeal or collateral attack. Mr. Ladd noted that if the Tiki Hut needed to be rebuilt because it was damaged, it could easily be rebuilt to comply with setbacks; it would not need a variance.

Ms. Nelson explained to Mr. Willey that the Tiki Hut could not be located in a different spot in the backyard if it needed to be rebuilt because this was a duplex and the other portion of the backyard belonged to her, not Ms. Hudson.

Motion made by Mr. Madfis, seconded by Mr. Cooper, to approve the Tiki Hut as requested, with the variance limited to the life of this structure. In a roll call vote, motion **failed 3-4** with Mr. Cooper, Ms. Zamojski, Mr. Sniezek and Mr. Willey opposed.

3. APPEAL NO. 12-25

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APPLICANT: 69th Street Properties, LP
AGENT: Scott Backman, Esq. – Siegel, Lipman, Dunay, Shepard *
Miskel, LLP
LEGAL: CORAL RIDGE ISLES 45-47 B PARCEL B LESS PT DESC'D
AS, COMM AT SW COR OF LOT 2 BLK 39, ELY 107.72 TO
POB, SLY 115, ELY 91 TO W R/W/L OF NE 18 AVE, NLY 136.5
M/L TO SE COR OF LOT 1 BLK 39, WLY TO POB & LESS PT
DESC'D IN OR 8508/723; TOGETHER WITH LOTS 5 THRU 10
BLK 39
ZONING: CB
STREET: 5021 NE 18th Avenue
ADDRESS: Fort Lauderdale, FL
DISTRICT: 1

APPEALING: Section 47-22.3.E.1 (Business zones)

Requesting a variance to allow reconstruction of two existing freestanding signs at a height of twenty (20) feet on Commercial Boulevard and at a height of sixteen and one-half (16.5) feet on NE 18th Avenue where the code states that a detached, freestanding sign shall not exceed a height of ten (10) feet above the grade of the street closest to the sign.

APPEALING: Section 47-22.3.P (Shopping center or strip store signs)

Requesting a variance to allow occupants to occupy more space on the sign than any other occupant where the code states that such signs may bear the name of the shopping center or a directory of occupants, or a combination of the shopping center name and a directory of occupants. No occupant may occupy more space on the sign than any other occupant.

This item was tabled from the July 11, 2012 BOA meeting, which included the previous request as indicated below:

APPEALING: Section 47-22.3.E.1 (Business zones)

Requesting a variance to allow reconstruction of two existing freestanding signs at a height of twenty-six and one-half (26.5) feet on Commercial Boulevard and at a height of sixteen and one-half (16.5) feet on NE 18th Avenue where the code states that a detached, freestanding sign shall not exceed a height of ten (10) feet above the grade of the street closest to the sign.

APPEALING: Section 47-22.3.P (Shopping center or strip store signs)

Requesting a variance to allow occupants to occupy more space on the sign than any other occupant where the code states that such signs may bear the name of the shopping center or a directory of occupants, or a combination of the shopping center

name and a directory of occupants. No occupant may occupy more space on the sign than any other occupant.

Mr. Fajardo explained that regarding the first appeal, Section 47-22.3.E.1, Commercial Boulevard actually permitted signs to be 14 feet above grade, so one sign would be required to be at 10 feet and the other would be required to be at 14.

Scott Backman, attorney, said the application had been modified. He displayed renderings and site plans of proposed improvements to the shopping center and said the signage would increase the shopping center's visibility. The first sign on Commercial Boulevard was 16.5 feet tall and the sign on 18th Avenue was 12 feet tall. Mr. Backman noted that when the shopping center was originally constructed, these taller signs were permitted. They were requesting the variance for 3.5 additional feet for the Commercial Boulevard sign and 4.5 additional feet for the 18th Avenue sign for total heights of 20 feet and 16.5 feet respectively. He pointed out a visibility problem along Commercial Boulevard cause by a utility box. Mr. Backman showed a rendering of the signs and stated they also wished a variance to allow larger tenants to have a larger presence on the signs, which he felt would allow them to bring more prominent tenants into the shopping center.

Mr. Backman stated Beth Edwards, the land planner, had conversations with representatives of the adjacent Coral Ridge Isles Association, who had expressed support for this request.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Cooper asked the width of the existing signs but Mr. Backman did not know. He described the previous configuration of the bays and said a large Winn Dixie bay had been split in two by a previous owner. Mr. Cooper thought breaking up the large bay could have cause the visibility problem of the corner bay. Mr. Backman said total square footage in the shopping center was 60,000 – 70,000 square feet.

Mr. Willey remarked that one's opinion on the City's not allowing larger signs for larger shopping centers depended upon one's point of view and feeling about signs. Mr. Backman stated they were not requesting more signage, but he felt there was "something a little amiss" when a small shop was entitled to the same signage as a large anchor tenant.

Mr. Sniezek asked how the additional width of Commercial Boulevard in this area was a special circumstance. Mr. Backman replied that the additional distance could make it more difficult to see the shopping center.

Motion made by Mr. Madfis, seconded by Mr. Cooper to approve the request as presented.

Mr. Madfis said the issue of subdividing the signs per square footage did not make sense because that option was available for the facade of the building.

Mr. Ladd said he had created many signs for shopping centers and he thought that the requirement for all signs to be the same size was ludicrous. Historically, he said the large tenant's name was put on the sign.

Mr. Dunckel said he would like to allow Mr. Backman to have some input regarding whether the Board should vote on all aspects of the request with one motion. Mr. Backman said there were distinct issues and asked the Board to vote separately. Mr. Dunckel clarified that the first request related to two different signs and the second request related to the relative size of tenants on the signs.

Mr. Madfis amended his **motion** to vote on the three appeals individually, and this first vote would address the request for the 20-foot Commercial Boulevard sign. Ms. Zamojski seconded. In a roll call vote, motion **failed** 2-5 with Ms. Zamojski, Mr. Willey, Mr. Madfis, Mr. Cooper and Chair Centorino opposed.

Regarding the request for the 16.5-foot sign on NE 18th Avenue: In a roll call vote, motion **failed** 0-7.

Regarding the request for allowing different tenants to occupy different amounts of space on the sign. In a roll call vote, motion **passed** 6-1 with Ms. Zamojski opposed.

At 7:31, Mr. Shallenberger left the meeting, never having voted.

4. APPEAL NO. 12-31

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APPLICANT:	Jay and Laurie Cline
LEGAL:	The N 35 feet of Lot 11 and all of lots 23 & 24 Block 3, Rivier, Plat Book 6, Page 17 "Las Olas by the Sea" Re-Amen Plat 1-16 B Lot 14 Less S 20 M/L for St Blk 6
ZONING:	RS-8 (Residential Single Family).
STREET:	626 Solar Isle
ADDRESS:	Fort Lauderdale, FL
DISTRICT:	2

APPEALING: Section 47.5-31 (Table of dimensional requirements for the RS-8 district)

Requesting a variance to allow the structure (attached awning) to be constructed with a rear yard setback of twelve (12) feet two (2) inches along the waterway where the code states the minimum rear yard setback shall be twenty-five (25) feet when abutting a waterway.

Jay Cline, applicant, stated he was allergic to the sun and had suffered numerous skin cancers and he desired the awning to provide protective shade. He had submitted a doctor's letter pursuant to this that had been included in the Board's packet. He stated installing this awning would still leave 12.5 feet to the seawall. Mr. Cline remarked that the adjacent neighbors had a boathouse and large hedges, which obstructed their views, and this would not additionally block their views.

Mr. Dunckel stated the law of variance addressed the need to make adjustments to the zoning code because of a unique attribute of the property, not the owner.

Mr. Madfis remarked that there was the opportunity on this property to create even more shade along the façade without encroaching into the setback. He wondered why Mr. Cline had decided on this spot for the awning. Mr. Cline said this was where the patio was located. Ann Cline, applicant, explained that the existing porch was located immediately off the kitchen and this was where they wished to have the awning.

Mr. Bond had noted that there was a covered portico near the swimming pool and Ms. Cline said this was a very small area, not large enough for their family, and it was far from the kitchen.

Ms. Zamojski suggested a series of freestanding shade structures and Ms. Cline stated they had two structures over the pool. She remarked that umbrellas needed to be opened and closed.

Mr. Madfis suggested a combination of umbrellas and a veranda that complied with the setbacks. He felt there were nicer options for the home that would not require a variance. Mr. Madfis did not think a variance was appropriate.

Laurie Cline, the applicant's daughter-in-law, felt that moveable structures were impractical. She requested the variance be limited to the Cline's ownership of the house. Chair Centorino asked what hardship was related to the land. Ms. Cline stated if the awning were located elsewhere, this would bifurcate the entertainment area. She said locating the awning elsewhere would be impractical and present a hardship for her father-in-law.

Mr. Madfis admitted he could not see the interior of the home so it was difficult to imagine the circulation issues. He reiterated his opinion that there was plenty of room to create sufficient outside space that did not encroach into the setback.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Dunkel advised the applicants that if the motion failed, they would be precluded from returning to the Board for two years. He suggested they consider a continuance to think about a different configuration to maximize the shade area.

Ms. Cline requested a 30-day continuance on behalf of her in-laws.

Mr. Willey said he would not vote in favor of a variance because there was a lot of room to put awnings in other areas.

Mr. Fajardo agreed there may be other options for the applicant, and recommended the applicant request a continuance and speaks with him about options.

Motion made by Mr. Cooper, seconded by Mr. Sniezek, to defer the case for 30 days. In a voice vote, motion passed 7-0.

5. APPEAL NO. 12-32

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APPLICANT: PNC Bank, NA
AGENT: Scott E. Backman, Esq
LEGAL: "Hooper's Choice" Plat 121-18 B Parcel A
ZONING: B-1 (Business Boulevard District).
STREET: 1100 N Federal Highway
ADDRESS: Fort Lauderdale, FL
DISTRICT: 2

APPEALING: Section 47-22.3.A.1 (Single Business Buildings)

Requesting a variance to allow two (2) detached freestanding signs where the code states that the total number of signs on any one (1) lot or plot shall not exceed four (4). The signs shall be limited and oriented to be viewed from the street and vehicular travelways abutting the lot or plot as follows: Two streets and no vehicular travelways are limited to three (3) signs, no more than one (1) being a freestanding sign.

Mt. Fajardo clarified that this property was on two streets with two or more vehicular travelways, so four signs, with no more than one being free-standing, was what the code would allow. This did not change the applicant's request.

Scott Backman, attorney, said the request was to allow a second monument sign. He stated the property was uniquely shaped and situated. He displayed photos and a site plan of the property and said they wanted to install one sign on Federal Highway and one on Sunrise Boulevard. Mr. Backman stated the square footage, height and size of the signs either met or was substantially less than code would permit. He showed a series of photos demonstrating the visibility problems on the property.

Mr. Madfis remarked that signs were allowed on both sides of the building that faced right-of-ways. He stated the site itself "almost requires no signage; it really is a sign in itself." Mr. Madfis said he did not understand the request and felt that anything could be created architecturally that could be seen from any angle. He felt the signs were "terrible solutions to this problem."

Mr. Backman confirmed for Mr. Dunckel that they were requesting the variance for the Sunrise Boulevard sign.

Mr. Cooper remarked that the signs were "gigantic" and it appeared they were trying to attract drivers' attention from 1,000 feet away. He suggested that one monument sign located at the corner of the property could be seen from five intersections.

Mr. Backman said the five variance criteria were clearly met by this property because of the special and unique conditions and the hardship not being self-created. Mr. Madfis agreed the site was unique, but pointed out that its uniqueness did not present a hardship but an advantage.

Ryan Thomas, project engineer, explained to Ms. Zamojski that this building was not a "cookie cutter" design and would be LEED certified. He said they had asked staff for a small, triangular sign on the corner and staff had suggested two smaller, nicer signs at the driveways. Mr. Thomas noted that the signs were needed to indicate the access points to the site.

Chair Centorino opened the public hearing.

Gunther Galloway stated he lived at the condo complex adjacent to this property on Federal Highway. He said Mr. Backman's presentation did not clearly indicate what the signs would look like and where they would be located. He would have preferred that PNC contact the condo association to explain their request. Mr. Galloway requested the Board defer the case until the applicant provided the neighbors with some more meaningful information.

There being no other members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Backman stated they would work with the sign company and shares the specifications with the condo neighbors and requested a 30-day deferral.

Motion made by Mr. Sniezek, seconded by Ms. Zamojski to defer the case for 30 days. In a voice vote, motion passed 7-0.

6. APPEAL NO. 12-33

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APPLICANT: Dave Coykendall
LEGAL: "Oak Grove 27-16 B Lots 5 Blk 1
ZONING: RS-8 (Residential Single Family).
STREET: 990 SW 32 St
ADDRESS: Fort Lauderdale, FL
DISTRICT: 4

APPEALING:Section 47-5.31 (Table of dimensional requirements for the RS-8 district)

Requesting a variance to allow the structure to be constructed with a front yard setback of twenty-three (23) feet six (6) inches where the code states the minimum front yard setback shall be twenty-five (25) feet.

Dave Coykendall, applicant, remarked that the construction had been done in 2001 by a previous owner. When they purchased the property in 2008, they had been informed by the bank that there was an open permit issue for the carport that had been enclosed for living space. When a survey was conducted, they had discovered that the new construction encroached into the setback.

Ms. Zamojski asked the date of the permit and Mr. Fajardo said the permit had been pulled in August 2001 but was never closed out. He said the dimensions had not changed since the mid-1990s so the setback was 25 feet in 2001. Mr. Fajardo could not say whether the dimensions of the enclosure were the same as the original carport and suggested a deferral to determine this.

Mr. Madfis wondered if plan review had missed the fact that the carport encroached into the setback and whether it had been built according to plan. He felt the permit application had not been proper to begin with. If the structure met structural requirements, he said the Board could entertain granting the variance.

Mr. Bond noted that it seemed no one wanted to take responsibility and agreed with Mr. Madfis that the Board should consider granting the variance.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Cooper, seconded by Mr. Madfis to approve the variance as requested with the understanding that the variance applied to the existing dimensions. In a roll call vote, motion passed 6-1 with Ms. Zamojski opposed.

Mr. Dunkel explained that Mr. Cooper's caveat would limit the variance to the carport structure to prevent it from ever becoming any longer or taller.

Communication to the City Commission
None.

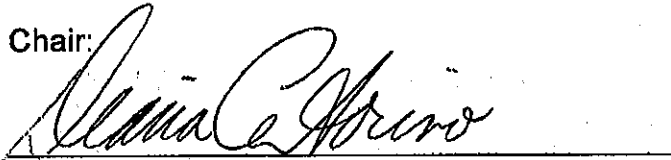
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Report and for the Good of the City
None.

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They're being no further business to come before the Board; the meeting was adjourned at 8:33 pm.

Chair:



Diana Centorino

Attest:



ProtoType Inc.

Minutes prepared by: J. Opperee, Prototype Inc.